

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

UNITED STATES OF AMERICA, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 2:07CV262 PS
)	Chief Judge Phillip Simon
JUPITER ALUMINUM CORPORATION,)	
)	
Defendant.)	
)	

JOINT STIPULATION AND AGREED ORDER TERMINATING CONSENT DECREE

Plaintiff United States of America, on behalf of the U.S. Environmental Protection Agency (“U.S. EPA”), and Defendant Jupiter Aluminum Corporation (“Jupiter”), stipulate, pursuant to Paragraph 78 of the Consent Decree, that Jupiter has satisfactorily complied with the requirements for termination of the Consent Decree based upon a certification by Jupiter that is attached hereto as Exhibit 1. The United States and Jupiter therefore seek the Court’s entry of this Joint Stipulation and Agreed Order Terminating the Consent Decree.

The United States filed its Complaint in this action on August 9, 2007, seeking civil penalties and injunctive relief from Jupiter Aluminum Corporation for alleged violations of the Clean Air Act, 42 U.S.C. §§ 7401-7617q, at its secondary aluminum production facility in Hammond, Indiana. On August 10, 2007, the Indiana Department of Environmental Management (“IDEM”) and the Hammond Department of Environmental Management (“HDEM”) (collectively, the “State Parties”) moved to intervene in this case and filed complaints in intervention, alleging violations similar to those in the United States’ complaint. That same day, this Court granted the State Parties’ motions for intervention.

On August 10, 2007, the United States lodged a proposed Consent Decree to resolve the violations in the United States', IDEM's, and HDEM's complaints. On October 10, 2007, this Court entered the Consent Decree after a public comment period. Among other things, the Consent Decree required Jupiter to implement injunctive relief to remedy alleged violations of 40 C.F.R. Part 63, Subpart RRR and to pay a \$2 million civil penalty for the alleged past violations of the Clean Air Act.

Paragraph 76 of the Consent Decree, which governs termination, provides:

After Defendant has completed the requirements of Section V (Remedial Measures) of this Decree, has thereafter maintained continuous compliance with 40 C.F.R. Part 63, Subpart RRR, and this Consent Decree for a period of twelve consecutive months, and has complied with all other requirements of this Consent Decree, including paying the civil penalty and any accrued stipulated penalties as required by this Consent Decree, Defendant may serve upon the United States and the State Parties a Request for Termination, stating that Defendant has satisfied those requirements, together with all necessary supporting documentation.

Paragraph 77 of the Consent Decree requires the United States, Jupiter, and the State Parties to confer regarding whether Jupiter has satisfactorily complied with the requirements for termination. Paragraph 78 of the Consent Decree provides that if the United States, after consultation with the State Parties, agrees that the Consent Decree may be terminated, the United States and Jupiter shall file for the Court's approval a joint stipulation terminating the Consent Decree.

Jupiter has certified that all prerequisites to termination have been met, as evidenced by: (1) the executed certification, which is attached as Exhibit 1 to this Joint Stipulation and Agreed Order; and (2) its Request for Termination, which is attached as Exhibit 2. Based on these submissions, the United States agrees that Jupiter has satisfactorily complied with the

requirements for termination of the Consent Decree and that this Court may terminate the Consent Decree. However, the Termination of the Consent Decree is not a defense in any future enforcement action brought by the United States, EPA, IDEM, HDEM, or any other entity.

NOW, THEREFORE, in light of the Parties' Joint Stipulation, and for good cause appearing, **IT IS HEREBY STIPULATED, AGREED, AND ORDERED:**

1. The Consent Decree is terminated in light of the Joint Stipulation. The termination shall take effect upon the Court's entry of this Joint Stipulation and Agreed Order.

SO ORDERED.

CHIEF JUDGE PHILLIP P. SIMON
UNITED STATES DISTRICT COURT

IT IS SO STIPULATED.

March 4, 2014

FOR PLAINTIFF UNITED STATES:

ROBERT DREHER
Acting Assistant Attorney General
Environment and Natural Resources Division
United States Department of Justice

s/Kristin M. Furrie
KRISTIN M. FURRIE
Trial Attorney
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
Ben Franklin Station, P.O. Box 7611
Washington, DC 20044
Tel: (202) 616-6515

DAVID CAPP
United States Attorney
Northern District of Indiana

WAYNE T. AULT
Assistant United States Attorney
5400 Federal Plaza, Suite 1500
Hammond, Indiana 46320

OF COUNSEL:
CATHLEEN R. MARTWICK
PADMAVATI G. BENDING
Associate Regional Counsel
U.S. EPA - Region 5
77 West Jackson Blvd.
Chicago, IL 60604

FOR DEFENDANT JUPITER
ALUMINUM CORPORATION:

s/Susan V. Harris
SUSAN V. HARRIS
Sidley Austin LLP
One South Dearborn Street
Chicago, IL 60603
(312) 853-7000

CERTIFICATE OF SERVICE

I hereby certify that on March 4, 2014, I electronically filed the foregoing document, **JOINT STIPULATION AND AGREED ORDER TERMINATING CONSENT DECREE** with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following:

Sharon J. Johnson - AUSA	sharon.johnson2@usdoj.gov, amber.mills@usdoj.gov, anita.kammer@usdoj.gov, doris.conway@usdoj.gov, janet.eisenmann@usdoj.gov, peggy.palmer@usdoj.gov, USAINN.ECFCivil@usdoj.gov
Wayne Ault	wayne.ault@usdoj.gov
Lisa A. Cherup	lisa.cherup@usdoj.gov
Kristin M. Furrie	kristin.furrie@usdoj.gov
Padmavati G. Bending	bending.padmavati@epa.gov
Cathleen R. Martwick	martwick.cathleen@epa.gov
Valerie M. Tachtiris	vtachtiris@atg.state.in.us
Alan R. Faulkner	law@gohammond.com
Kristina C. Kantar	law@gohammond.com
John M. Heyde	jheyde@sidley.com
Robert M. Olian	rolian@sidley.com, efilingnotice@sidley.com, shalicky@sidley.com
Michael V. Knight	michael.knight@btlaw.com

and I hereby certify that on this same day I directed a copy of this same document by United States Postal Service first-class mail, postage prepaid, to the following non CM/ECF participants:

Anthony C. Sullivan
Barnes & Thornburg LLP
11 S. Meridian Street Suite 1313
Indianapolis, IN 46204-3535

Mark K. Schoenfield PHV
Jupiter Aluminum Corp.
1765 165th Street
Hammond, IN 46320-2800

s/Kristin M. Furrie
Kristin M. Furrie